

## REMARKS

Applicants have disregarded the office action mailed in error on March 24, 2006 according to the Examiner's instruction. In the Office Action<sup>1</sup> mailed on April 10, 2006, the Examiner rejected claims 1-15<sup>2</sup> under 35 U.S.C. § 102(e) as being anticipated by Carter et al., U.S. Patent No. 6,553,401, hereinafter referred to as Carter. Applicants note that claims 4, 5, and 12 have been canceled and thus the rejection of these claims is moot. Applicants respectfully traverse the rejection of claims 1-3, 6-11, and 13-15 for the reasons set forth below.

In order to properly establish that Carter anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Independent claims 1, 9, and 15, which have been amended to incorporate all limitations of claim 4, each recite a combination including, for example, "each of the server computers being constructed to assume **four states**, which are **master state** in which the server computer carries out the process and has a mate which takes over the process, **single master state** in which the server computer carries out the process and has no mate which takes over the process, **slave state** in which the server computer

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

<sup>2</sup> On page 2 of the Office Action, the Examiner indicates that only claims 1-9 and 15 are rejected. The Examiner, however, proceeds to reject claims 1-15 in the Office Action. Accordingly, Applicants assume that the Examiner meant to indicate that claims 1-15 were rejected under 35 U.S.C. § 102(e).

does not carry out the process but has information necessary for taking over of the process, and **halt state** in which the server computer does not carry out the process and holds no further information necessary for taking over of the process” (emphasis added).

The Examiner asserts that Carter teaches the method and system wherein each of the server computers is constructed to assume four states, one of which is a single master state in which the server computer carries out the process and has no mate which takes over the process. This assertion is incorrect. Applicants respectfully submit that Carter fails to disclose at least “single master state in which the server computer carries out the process and has no mate which takes over the process,” as recited by claims 1, 9, and 15, and required by dependent claims 2, 3, 6-8, 10, 11, 13, and 14.

Carter’s disclosure is directed towards “provid[ing] a method and apparatus which continue to provide a service even after a server fails ... [and] even after a site failure has occurred” (Col. 3, lines 25-29). Carter discloses “[t]he cluster manager in an exemplary embodiment determines whether the database service should be reallocated to another server ... of the current subcluster ... to which the service is allocated based upon availability of the servers ... of the current subcluster” (Col. 6, lines 16-22). Carter further discloses “[i]f, however, the cluster manager ... determines that the database service should not be reallocated to another server ... of the current subcluster ... then the cluster server ... determines whether the database service should be reallocated to a server ... of another subcluster” (Col. 7, lines 5-10). Accordingly, Applicants submit that Carter is silent with respect to a server in the single master state, in which the

server has no mate which takes over the process. That is, Carter does not disclose a server in a state in which no other server (in the same subcluster or in a different subcluster) can take over its service. Therefore, Carter cannot teach or suggest “single master state in which the server computer carries out the process and has no mate which takes over the process,” as recited by claims 1, 9, and 15.

Because Carter fails to disclose each and every element recited in claims 1, 9, and 15, and required by dependent claims 2, 3, 6-8, 10, 11, 13, and 14, Carter cannot anticipate claims 1-3, 6-11, and 13-15. Applicants therefore submit that independent claims 1, 9, and 15, as amended, are allowable, and dependent claims 2, 3, 6-8, 10, 11, 13, and 14 are also allowable at least by virtue of their dependence from claims 1, 9, and 15. Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 1-3, 6-11, and 13-15 under 35 U.S.C. § 102(e).

Applicants further note that Carter discloses that a cluster system is configured of a plurality of subclusters, and that each subcluster is configured of a plurality of servers. With regards to reallocating a database service, Carter discloses that the plurality of subclusters have specific priorities within the cluster system, and that the plurality of servers have specific priorities within the subclusters which the servers belong to. In addition, Carter discloses that a cluster manager determines which server the service should be reallocated to, on the basis of the priorities of a plurality of subclusters, the priorities of a plurality of servers inside the subclusters, and the state of the servers.

It can be regarded that all servers inside the cluster system of Carter have specific priorities within the cluster system, which are determined based on the priorities of the servers within the subclusters and the priorities of the subclusters which the

servers belong to. Therefore, Carter discloses that the cluster manager determines the server which the service should be reallocated to, on the basis of the priorities of the plurality of servers inside the cluster system and the state of the servers. Each of the servers is either in a state (first state) where the server is available to provide the service, or in a state (second state) where the server is unavailable to provide the service for reasons such as a hardware failure or a software failure. See, e.g., Carter column 6, line 13 to column 7, line 43.

Carter further discloses using data by mirroring data among subclusters. With the cluster system disclosed by Carter, it is assumed that if, for example, data were mirrored between node A and node B, the data between node A and node B would always match. On the basis of this assumption, Carter discloses that if, for example, node A were to fail, the data of node B is mirrored to a different node C. See, e.g., Carter column 6, line 13 to column 7, line 43.

However, Carter does not consider a case where a fault generates in both node A and node B having mirrored data, and where both nodes A and B, or one of nodes A or B is restored from the fault. In such an exceptional case, data of node A and data of node B do not necessarily match. Therefore, with a cluster system as that disclosed by Carter, wherein the server which the service is to be reallocated to is determined merely according to the priorities of the servers that are available to provide the service, the determined server cannot necessarily take over the service accurately.

In consideration of a special case as that described above consistent with the claimed invention, it is necessary to determine which server has most recently carried out a process to determine which server the service should be reallocated to. This is

because the server that has the latest data at the time determination is to be made of which server to reallocate the service to, is the server that has most recently carried out a process. Carter does not suggest anything about such a technical problem.

Claims 1, 9, and 15, however recite that “each server computer [is] constructed to assume four states, which are master state in which a server computer carries out the process and has a mate which takes over the process, single master state in which a server computer carries out the process and has no mate which takes over the process, slave state in which a server computer does not carry out the process but has information necessary for taking over of the process, and halt state in which a server computer does not carry out the process and holds no further information necessary for taking over of the process.” Carter fails to teach at least this element.

The system of Carter discloses only a first state and a second state. See, e.g., Carter column 6, line 13 to column 7, line 43. Even if the disclosed first state and second state could reasonably correspond to Applicants’ claimed “master state” and “slave state,” Carter would still fail to disclose Applicants’ claimed “single master state” and “halt state.” That is, Carter can at best be characterized as teaching only two states, while claims 1, 9, and 15 recite server computers which “assume four states” (emphasis added). Accordingly, claims 1, 9, and 15 are allowable over Carter for at least this additional reason.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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